

Amendment No. 1 to HB2012

Montgomery
Signature of Sponsor

AMEND Senate Bill No. 1528*

House Bill No. 2012

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated Section 49-5-401, is amended by deleting the language "May 15" in subsection (a) and by substituting instead the language "June 15".

SECTION 2. Tennessee Code Annotated Section 49-5-409(b)(2), is amended by deleting the language "May 15" and by substituting instead the language "June 15".

SECTION 3. Tennessee Code Annotated Section 49-5-409, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

Nothing in this section shall prohibit a board from abolishing a position after June 15, for sufficient, just and nondiscriminatory reasons; provided, that the person holding the position is notified immediately in writing stating the reasons for abolishing the position and the person is entitled to the next position that the person is qualified to hold and that opens within the school system during the remainder of the school year. The determination of whether a teacher is qualified for an open position shall be made by the director of schools, and the teacher's most recent evaluations may be a factor in such determination.

SECTION 4. Tennessee Code Annotated Section 49-5-501, is amended by deleting subsection (6) in its entirety and substituting instead the following:

“Inefficiency” means being below the standards of efficiency maintained by others currently employed by the board for similar work, or habitually tardy, inaccurate or wanting in effective performance of duties. The definition of inefficiency includes, but is not limited to, having evaluations demonstrating an overall performance effectiveness level that is “below expectations” or “significantly below expectations” as provided in the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302.

SECTION 5. Tennessee Code Annotated Section 49-5-501, is amended by deleting subsection (11) in its entirety and by substituting instead the following:

“Tenure” is the employment status other than probation that a teacher may be under while teaching in the public schools. A teacher has no property right in the teacher's tenure status and must sustain a specified performance effectiveness level on evaluations, as provided in this part, to achieve and maintain tenure status. If a teacher acquires tenure, the teacher shall remain under that status until such time as the teacher resigns, retires, is dismissed or the teacher is returned to probationary status by the director of schools under the provisions of this part. No teacher who acquired tenure status prior to July 1, 2011, shall be returned to probationary status. No teacher, including administrative and supervisory personnel, who has acquired tenure status is entitled to any specific position.

SECTION 6. Tennessee Code Annotated Section 49-5-502, is amended by deleting the words “permanent or limited” wherever it appears.

SECTION 7. Tennessee Code Annotated Section 49-5-503, is amended by deleting the section in its entirety and by substituting instead the following:

Any teacher who meets all of the following requirements is eligible for “tenure”:

(1) Has a degree from an approved four-year college or any career and technical teacher who has the equivalent amount of training established and licensed by the state board of education;

(2) Holds a valid teacher license, issued by the state board of education, based on training covering the subjects or grades taught;

(3) Has completed a probationary period of five (5) school years or not less than forty-five (45) months within the last seven-year period, the last two (2) years being employed in a regular teaching position rather than an interim teaching position;

(4) Has received evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations” as provided in the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of the probationary period; and

(5) Is reemployed by the director of schools for service after the probationary period.

SECTION 8. Tennessee Code Annotated Section 49-5-504, is amended by deleting the section in its entirety and by subsisting instead the following:

(a) Any teacher, otherwise qualified for tenure status, shall meet the following requirements prior to becoming eligible for tenure status:

(1) Served five (5) school years or not less than forty-five (45) months within a seven-year period as a probationary teacher; and

(2) Received evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations” provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of their probationary period.

(b) Notwithstanding any other provision of law to the contrary, once a teacher is eligible for tenure, the teacher shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

(c) Time spent on leave of absence, except sick leave as provided in § 49-5-710, shall not be counted as a part of the probationary period.

(d) A teacher who has attained tenure status in a school system and later resigns from the system shall serve a two-year probationary period upon reemployment by the system, unless the probationary period is waived by the board of education upon request of the director of schools. Upon completion of the two-year probationary period, the teacher shall be eligible for tenure and shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

(e) Any teacher who, after acquiring tenure status, receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “below expectations” or “significantly below expectations”, as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, shall be returned to probationary status by the director of schools until the teacher has received two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations”. When

a teacher who has returned to probationary status has received two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations”, the teacher is again eligible for tenure and shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

(f) Subsection (e) does not apply to teachers who acquired tenure prior to July 1, 2011.

SECTION 9. Tennessee Code Annotated Section 49-5-511, is amended by deleting subdivision (b)(3) in its entirety and substituting instead the following:

A tenured teacher who has been dismissed because of abolition of a position shall be placed on a list for reemployment in the first vacancy the teacher is qualified by training and experience to fill. Nothing in this subsection (b) shall be construed to deprive the director of schools of the power to determine the filling of such vacancy on the basis of the director of school's evaluation of the teacher's competence, compatibility and suitability to properly discharge the duties required for the vacant position considered in the light of the best interest of the students in the school where the vacancy exists. The teacher's most recent evaluations may be a factor in such determination.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect July 1, 2011, the public welfare requiring it.